

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION**

**SALUSCARE, INC.**

Plaintiff,

v.

**AMAZON WEB SERVICES, INC.**  
and **JOHN DOE**, In Possession of Stolen  
SalusCare, Inc. Confidential Information,  
Thereby Injuring SalusCare, Inc. and Its  
Customers, Clients, and Vendors,

Defendants.

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**VERIFIED COMPLAINT AND DEMAND FOR JURY TRIAL  
INJUNCTIVE RELIEF REQUESTED**

Plaintiff SalusCare, Inc. ("SalusCare" or "Plaintiff") hereby complains and alleges against Amazon Web Services, Inc. ("Amazon") and John Doe ("John Doe"), as follows:

**NATURE OF THE ACTION**

1. This is a civil action for injunctive relief and damages against Defendant John Doe and for injunctive relief against Amazon arising under the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, and the Computer Abuse and Recovery Act, Section 668.801, et seq. Florida Statutes. As further alleged below, Defendant John Doe wrongfully accessed SalusCare's computer systems and extracted SalusCare's confidential business and patient financial and health-related information and other

sensitive information. Defendant John Doe then contracted with Defendant Amazon for web-based storage “buckets,” into which the extracted data was uploaded. Unless both Defendants are enjoined immediately, Defendant John Doe will likely sell the stolen information on the “dark web” where it will likely be used to promote identity theft and possible online disclosure—any of which would cause substantial, imminent, and irreparable harm to Plaintiff.

### **THE PARTIES**

2. Plaintiff SalusCare is a not-for-profit mental health and substance abuse service provider headquartered in Fort Myers, Florida. Incorporated in 2013, following the merger of Lee Mental Health Center and Southwest Florida Addiction Services (SWFAS), it is the most comprehensive provider of behavioral healthcare services in Southwest Florida.

3. Amazon is a Delaware corporation which provides information storage services to individuals and companies. Amazon is the owner of the server containing the buckets of stolen information. Amazon routinely contracts with entities for such data storage services throughout the United States and the world, including the State of Florida. Amazon is headquartered in and a resident of the State of Washington.

4. Defendant John Doe controls two web-based storage sites, or “buckets,” which it has created under contract with Amazon, in which the stolen information has been stored. SalusCare is informed and believes and thereupon alleges that John

Doe can likely be contacted via web portal available at s3://saluscare and s3://saulscare. SalusCare is unaware of the true name(s) of Defendant sued herein as John Doe and, therefore, sues this Defendant under a fictitious name. Plaintiff will amend this Complaint to allege the true name and capacity of Defendant John Doe when ascertained. Plaintiff has exercised due diligence and will continue to exercise due diligence to determine Defendant John Doe's true name(s), capacity, and contact information, and to effect service on that Defendant.

5. On information and belief, the fictitiously named Defendant is responsible for the occurrences herein alleged, and SalusCare's injuries as herein alleged were proximately caused by such Defendant.

6. On information and belief, the actions and omissions alleged herein to have been undertaken by Defendant and their agents were actions that Defendant authorized, controlled, directed, or had the ability to control, direct, and/or were actions and omissions Defendant assisted, participated in, or otherwise encouraged, and are actions for which Defendant is liable.

### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331, as the action arises under the federal Computer Fraud and Abuse Act (18 U.S.C. § 1030) ("CFAA"). This Court has subject-matter jurisdiction under 28 U.S.C. § 1367 over the claims for violation of Florida's Computer Abuse and

Recovery Act (“FCARA”), Ch. 668.801 et seq. Fla. Stat., which forms part of the same case or controversy as the CFAA claim.

8. This Court has personal jurisdiction over Defendant John Doe as a result of the Defendant’s unauthorized access into, and misappropriation of information from, a “protected computer” as defined in 18 U.S.C. § 1030(e)(2)(B) that is used for commerce and communication with persons and entities in Florida, and also as a result of Defendant’s wrongful conduct causing injurious effect in Florida.

9. This Court has personal jurisdiction over Defendant Amazon because Amazon, through its web-based information storage business, provides web-storage services extensively to individuals and businesses which transmit data and payment therefore from Florida. Accordingly, Amazon operates, conducts, carries on, and a business or business venture in Florida, and is engaged in substantial and not isolated activity in this state.

10. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b). A substantial part of the events or omissions giving rise to SalusCare’s claims occurred in this judicial district.

## FACTS

11. On or about March 16, 2021, SalusCare learned of the unauthorized access to and exfiltration of its data when issues of “slowness” were detected in its computer network. A prompt forensic inspection revealed that the data had been



sent to one or two data storage “buckets” owned and managed by Amazon pursuant to “code” originating in Ukraine. SalusCare has no business in Ukraine and is unaware of any legitimate, non-fraudulent, explanation for such an exfiltration.

12. The breached machines, or computers, are “protected computers” under 18 U.S.C. § 1030(e)(2)(B), which defines a “protected computer” as a computer

which is used in or affecting interstate or foreign commerce or communication, including a computer located outside the United States that is used in a manner that affects interstate or foreign commerce or communications to the United States.

The breached computers are used for interstate and foreign commerce or communication.

13. After discovering the incident, SalusCare acted promptly in contacting Amazon requesting that the buckets of stolen data be “locked.” Amazon responded that the bucket accounts had been “suspended.” However, Amazon has given no assurance of how long they will remain suspended. SalusCare, in spite of its forensic investigation, has yet been unable to determine the identity of the intruder, the precise scope of the intrusion, and the extent of the damages. This investigation is ongoing.

14. Plaintiff has already been irreparably harmed by Defendant John Doe’s illegal misappropriation of SalusCare’s data. To date, Plaintiff has been forced to spend a substantial sum of money (in excess of \$12,000.00) to investigate the

incident and to remediate the damage Defendant John Doe has caused and is in the position to further cause.

**COUNT I – JOHN DOE: VIOLATION OF THE  
COMPUTER FRAUD AND ABUSE ACT  
(18 U.S.C. § 1030)**

15. SalusCare realleges and incorporates by reference the allegations contained in paragraphs 1 through 14 above.

16. Title 18, United States Code, Section 1030(g) provides that “any person who suffers damage or loss by reason of a violation of this section may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief.” Under 18 U.S.C. § 1030(g), (a)(2)(C), and (c)(4)(A)(i)(I), a civil action may be brought if the conduct involves a loss during any one-year period aggregating at least \$5,000 in value.

17. Defendant John Doe violated the Computer Fraud and Abuse Act, 18 U.S.C. § 1030(a)(2)(C), by knowingly and intentionally accessing SalusCare’s protected computers without authorization or in excess of any authorization and thereby obtaining information from the protected computers in a transaction involving an interstate or foreign communication.

18. Defendant John Doe further violated the Computer Fraud and Abuse Act, 18 U.S.C. 1030(a)(5)(B), by intentionally accessing protected computers without authorization, and as a result of such conduct, recklessly causing damage to Plaintiff.

19. Defendant John Doe again further violated the Computer Fraud and Abuse Act, 18 U.S.C. 1030(a)(5)(C), by intentionally accessing protected computers without authorization, and as a result of such conduct, causing damage and loss to Plaintiff.

20. Defendant's conduct has caused a loss to Plaintiff during a one-year period aggregating well in excess of the statutory minimum of \$5,000 in value.

21. Plaintiff has suffered damages resulting from Defendant John Doe's conduct.

22. Plaintiff seeks compensatory and punitive damages under 18 U.S.C. § 1030(g) in an amount to be proven at trial.

23. As a direct result of Defendant John Doe's actions, Plaintiff has suffered and continues to suffer irreparable harm for which Plaintiff has no adequate remedy at law. Plaintiff will continue to suffer irreparable harm until an injunction issues against Defendant.

**COUNT II – JOHN DOE: COMPUTER ABUSE AND RECOVERY ACT**  
(Ch. 668.801 et seq. Fla. Stat.)

24. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 14 above.

25. This is an action for damages and injunctive relief against John Doe under Florida's Computer Abuse and Recovery Act ("FCARA"), Ch. 668.801 et seq. Fla. Stat.

26. FCARA provides a private right of action for damages against one who “[o]btains information from a protected computer without authorization and, as a result, causes harm or loss.” Fla. Stat. 668.803(1). FCARA defines a “protected computer” as one which is:

used in connection with the operation of a business and stores information, programs, or code in connection with the operation of the business in which the stored information, programs, or code can be accessed only by employing a technological access barrier.

Fla. Stat. 668.802(6).

27. At all times, SalusCare used the computer from which the subject data was stolen in the operation of its business, to store information, and protected from unauthorized access by a technological access barrier.

28. John Doe’s theft of SalusCare’s data has caused SalusCare to suffer harm and loss.

29. In addition to harm and loss compensable with a monetary award, the theft has caused, and continues to cause SalusCare to suffer irreparable harm for which SalusCare has no adequate remedy at law. Plaintiff will continue to suffer irreparable harm until an injunction issues against Defendant John Doe.

**COUNT III – AMAZON: INJUNCTION**  
(Ch. 668.801 et seq. Fla. Stat.)

30. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 14 and 26 through 29 above.



31. This is an action for injunctive relief against Amazon under Florida's Computer Abuse and Recovery Act ("FCARA"), Ch. 668.801 et seq. Fla. Stat.

32. SalusCare has no adequate remedy at law. Rather, to protect SalusCare and its patients and employees from irreparable injury, Amazon must be immediately enjoined from allowing John Doe any further access to the Buckets.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff SalusCare prays that the Court:

a. Enter in favor of SalusCare and against the John Doe a money judgment that includes (a) disgorgement of the John Doe's profits; (b) compensatory damages; (c) enhanced, exemplary, special, and punitive damages; (d) attorney's fees, costs, and expenses; and (e) interest.

b. Enjoin Defendants John Doe and Amazon and their officers, directors, principals, agents, servants, employees, successors, and assigns, and all persons and entities in active concert or participation with them, from engaging in any of the activity complained of herein or from causing any of the injury complained of herein and from assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activity complained of herein or from causing any of the injury complained of herein;

c. Order that Amazon and its officers, directors, principals, agents, servants, employees, successors, and assigns, and all persons and entities in active concert or

participation with them, deliver to Plaintiff a complete copy of the contents of the Buckets along with complete audit logs of all transfers of information into and out of the Buckets, and thereafter permanently purge all contents of the Buckets.

d. Order that John Doe and its officers, directors, principals, agents, servants, employees, successors, and assigns, and all persons and entities in active concert or participation with them, deliver to Plaintiff a complete copy of all files and data exfiltrated from the Buckets, along with complete audit logs of all such transfers of such data, and thereafter permanently purge from its system(s) all information stolen from plaintiff.

e. Award Plaintiff any and all other relief to which Plaintiff is entitled.

Respectfully submitted on March 23, 2021.

**VERIFICATION**

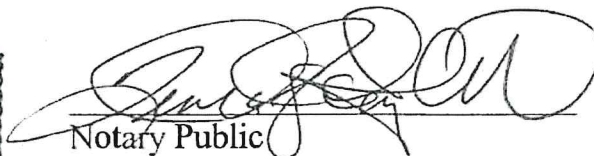
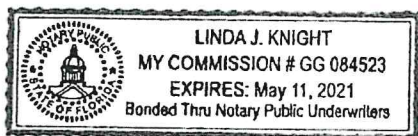
STATE OF FLORIDA    )  
                                  ) §  
COUNTY OF LEE        )

I hereby verify that I am the President and Chief Executive Officer of SalusCare, Inc. and that the contents of this Verified Complaint are true and accurate to the best of my knowledge and belief.



STACEY COOK, MSW, LCSW, CPNLP

SWORN TO and SUBSCRIBED BEFORE ME, via ☒ physical presence or ☐ online notarization, this 23 day of March, 2021, by STACEY COOK, who took an oath and who is personally known by me or who has produced DL C200-792-72-722-D as identification.

  
Notary Public

**J. TOM SMOOT, III, P.A.**

Trial Counsel for Plaintiff

1401 Lee Street, Suite D

Fort Myers, Florida 33901

Telephone: (239) 337-7037

Facsimile: (239) 332-7825

Primary email: [tom@tsmoot.com](mailto:tom@tsmoot.com)

Other email: [sharon@tsmoot.com](mailto:sharon@tsmoot.com)

By: 

James Thomas Smoot, III

Florida Bar No.: 886874



JS 44 (Rev. 10/20)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

SALUSCARE, INC

(b) County of Residence of First Listed Plaintiff LEE COUNTY  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

J. Tom Smoot, III, 1401 Lee Street, Suite D, Fort Myers,  
Florida 33901

**DEFENDANTS**

AMAZON WEB SERVICES, INC. and JOHN DOE in  
Possession of Stole SalusCare, Inc. Confidential  
County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Jonathan Chock, Senior Corporate Counsel, AWS, 410  
Terry Avenue, North Seattle, WA 98109

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
18 USC Section 1030

Brief description of cause:

Damages and Injunctive Relief for Violation of Computer Abuse and Recovery Act

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

100,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

3-31-2021

SIGNATURE OF ATTORNEY OF RECORD

*[Signature]* FB # 886 874

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
Original Proceedings. (1) Cases which originate in the United States district courts.  
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

Signature of Clerk or Deputy Clerk



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ : or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there.  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address: or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ : or

☐ I returned the summons unexecuted because \_\_\_\_\_ : or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

**SALUSCARE, INC.**

Plaintiff,

v.

**AMAZON WEB SERVICES, INC.**

and **JOHN DOE**, In Possession of Stolen  
SalusCare, Inc. Confidential Information,  
Thereby Injuring SalusCare, Inc. and Its  
Customers, Clients, and Vendors,

Defendants.

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**VERIFIED UNOPPOSED<sup>1</sup> EMERGENCY EX PARTE MOTION FOR  
TEMPORARY RESTRAINING ORDER/PRELIMINARY  
INJUNCTION/EXPEDITED DISCOVERY AND MEMORANDUM OF  
LAW IN SUPPORT THEREOF**

Plaintiff SalusCare, Inc. (“SalusCare” or “Plaintiff”) moves for a preliminary injunction and a temporary restraining order (“TRO”) pursuant to Fed R. Civ. P. 65 and Local Rules 4.05 and 4.06 enjoining Amazon Web Services, Inc. (“Amazon”) from allowing John Doe or any other person access to Amazon’s virtual storage “buckets” identified as s3://saluscare and s3://saulscare (“the Buckets”), and further enjoining John Doe from further unauthorized transfers and disclosures of SalusCare’s data. SalusCare further moves for an order permitting expedited

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<sup>1</sup> The relief sought is not opposed by Amazon. “John Doe” has not consented.



discovery, requiring Amazon to provide SalusCare with all available audit logs relative to the two Buckets.

1. As of the filing of this motion, Amazon has not yet been served with the summons and complaint. However, the undersigned has engaged in substantive communication with attorneys employed in Amazon's general counsel office, and has provided said counsel with a copy of the Verified Complaint and this Motion. Amazon attorney Jonathan Chock has informed the undersigned that Amazon does **NOT OPPOSE** the relief sought herein.

2. Due to the elusive and nefarious nature of John Doe, SalusCare has not communicated with that defendant and does not expect to. However, Amazon has stated that it has suspended all access to the Buckets and, as John Doe is presumably aware by now of the suspension, John Doe could hypothetically contact Amazon regarding the suspension and become informed thereby of these proceedings.

3. The stolen data is an entire database containing thousands of SalusCare's electronically-stored patient and employee files. The files contain extremely personal and sensitive records of patients' psychiatric and addiction counselling and treatment. The files also contain sensitive financial information such as social security numbers and credit card numbers of SalusCare patients and employees. Unauthorized release of the stolen data will cause irreparable injury to patients' privacy, mental health, and credit and finances.

4. Prior to filing this lawsuit, Amazon attorney Jonathan Chock indicated to the undersigned that Amazon has voluntarily suspended all access to the Buckets. However, Amazon's voluntary suspension of access is neither an injunction nor an agreement.

5. A temporary restraining order enjoining Amazon from allowing access to the Buckets is critically necessary to avoid irreparable injury. Further, an expedited discovery order requiring Amazon to provide SalusCare with full audit logs of the Buckets is critically necessary to allow SalusCare time to develop its proof for the upcoming hearing on its motion for preliminary injunction and to take swift and decisive action to avoid further irreparable and imminent injury to patients and employees.

6. Injury would be likely to occur if John Doe and others were to gain access to the Buckets. The threat of such injury is so imminent that notice and a hearing on an application for a preliminary injunction pursuant to Fed. R. Civ. P. 65 is impractical if not impossible.

### **MEMORANDUM OF LAW**

I. **Temporary Restraining Order ("TRO")**. Rule 65 of the Federal Rules of Civil Procedure provides that a court may only issue a preliminary injunction "on notice to the adverse party." Fed. R. Civ. P. 65(a) (1). A court may, however, issue a TRO without notice to the adverse party if "specific facts in an

affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition.” Fed. R. Civ. P. 65(b)(1)(A). Because defendants have not been served with process, SalusCare requests the Court take its request for a preliminary injunction under advisement.

A court is authorized to enter a TRO in limited circumstances. See Fed. R. Civ. P. 65(b); Local Rule 4.05. “Such orders will be entered only in emergency cases to maintain the status quo until the requisite notice may be given and an opportunity is afforded to opposing parties to respond to the application for a preliminary injunction.” Local Rule 4.05(a). The party seeking relief must demonstrate: (1) a substantial likelihood of success on the merits; (2) irreparable injury “so imminent that notice and a hearing on the application for preliminary injunction is impractical if not impossible”; (3) that the balance of equities favors the movant; and (4) that the TRO, if issued, will not be adverse to the public interest. Local Rule 4.05 (ta) (2)–(4). See also *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1225–26 (11th Cir. 2005).

**A. Substantial Likelihood of Success on the Merits.** Plaintiffs are likely to prevail on the merits of their claims under the Florida Computer Abuse and Recovery Act (“FCARA”), Ch. 668.801 et seq. Fla. Stat.

FCARA makes it unlawful to “knowingly and with intent to cause harm or loss ... [o]btain[] information from a protected computer without authorization and, as a result, cause[] harm or loss.” Fla. Stat. 688.803(1). FCARA defines a “protected computer” as one which is:

used in connection with the operation of a business and stores information, programs, or code in connection with the operation of the business in which the stored information, programs, or code can be accessed only by employing a technological access barrier.

Fla. Stat. 668.802(6).

To establish a violation of FCARA, a plaintiff must prove (1) it had a protected computer, (2) a person obtained information from it without authorization, (3) the person obtained the information knowingly and with an intent to cause harm or loss, and (4) actually caused harm or loss.

**i. Protected computer.** SalusCare has established through the Verified Complaint [¶ 28], verified by its President and CEO, Stacey Cook, and also by the affidavit, attached hereto, of Alejandro Garcia, its Business Data Analyst Manager, that the computer on which the subject data is stored is protected by technological access barriers, to wit: passwords given only to SalusCare employees.

**ii. Person obtained information without authorization.** SalusCare demonstrates that its server was copied by an unauthorized person. The affidavit of Alejandro Garcia, SalusCare’s Business Data Analyst Manager, states demonstrates that on March 16, 2021, Garcia responded to reports of a computer slowdown, and



soon discovered through audit logs that SalusCare's server had just been "hacked" and copied by an unknown actor without authorization. Garcia attests that the hacker's "code" originated in Ukraine, and that audit logs showed the servers were copied to two Amazon URLs identified as s3://saluscare and s3://saulscare.

**iii. Person obtained the information knowingly and with an intent to cause harm or loss.** SalusCare has established that the database and information was obtained knowingly and with an intent to cause harm or loss. The affidavit of Alejandro Garcia and the Verified Complaint [¶ 11] demonstrate that SalusCare has no business in Ukraine and is unaware of any legitimate, non-fraudulent explanation for such an exfiltration. Further, there is simply no reason an unauthorized person would copy a health care provider's database in this manner other than to cause harm or loss.

**iv. Actual harm and loss resulted.** SalusCare has established through the Verified Complaint [¶ 14] that it has already suffered loss in that it has been forced to spend over \$12,000.00 on an outside vendor of forensic analysis services.

**B. Irreparable Injury.** SalusCare has demonstrated the likelihood of irreparable injury. Based on the Verified Complaint [¶¶ 23, 29] and affidavit of Garcia, one can only conclude that, without Court intervention, John Doe is likely to gain access to the Buckets and continue to sell the confidential health care and financial

information contained therein. There is no legal remedy for the loss of patient health and privacy that would result from disclosure of the stolen information.

**C. Balance of the Harm to the Parties.** SalusCare has established that the threatened harm substantially outweighs any potential harm to Amazon or John Doe because SalusCare is likely to suffer irreparable harm, while John Doe would suffer, at worst, a temporary loss of access to the information while it makes its case. Amazon would suffer no conceivable harm in a temporary freeze of the Buckets. Indeed Amazon states that it has voluntarily suspended access to the Buckets for the time being. A TRO would simply allow the parties to maintain the status quo thereby ensuring that John Doe will not have an opportunity to access or use the subject information while it hypothetically pursued its legal rights. The balance of harm thus weighs in favor of SalusCare.

**D. Public Interest.** SalusCare demonstrates there is no evidence that a TRO would be adverse to the public interest. Indeed, it is in the public interest to protect patients of a healthcare provider against public disclosure of their sensitive and private healthcare and financial records. Accordingly, entry of a TRO in this matter would serve the public interest and should therefore be granted.

**F. Bond.** Rule 65(c) provides that a court may issue a TRO “only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or

restrained.” Fed. R. Civ. P. 65(c). The undersigned represents that Amazon’s counsel does not seek a bond. However, to the extent defendant John Doe is entitled to consideration of a bond, SalusCare would represent that a nominal bond in the amount of \$1,000.00 would be sufficient, at least initially, to redress John Doe’s damages for temporary lack of access to the Buckets due to an improvidently issued TRO.

**II. Expedited Discovery.** SalusCare requests that Amazon be ordered to turn over all audit logs that are available for the Buckets as soon as practicable. Amazon does not object to this request. The Court has the discretion to authorize expedited discovery in aid of a preliminary injunction hearing, particularly where the discovery is narrow and essential and good cause exists. See *Thyssenkrupp Elevator Corp. v. Hubbard*, Case No. 2:13–cv–202–FtM–29SPC, 2013 WL 1953346, at \*1 (M.D. Fla. May 10, 2013). Factors bearing on the existence of good cause include: “(1) whether a motion for preliminary injunction is pending; (2) the breadth of the requested discovery; (3) the reason(s) for requesting expedited discovery; (4) the burden on the opponent to comply with the request for discovery; and (5) how far in advance of the typical discovery process the request is made.” *Id.* Here, the requested discovery is narrowly tailored to identify what stolen information has been disclosed and to whom, and what remains undisclosed. For these reasons, SalusCare requests the Court grant its motion for expedited discovery.

**PRAYER FOR RELIEF**

**WHEREFORE**, movant SalusCare prays that the Court:

a. Enter a TRO restraining Amazon from allowing John Doe or anyone else access to the virtual storage “buckets” identified as s3://saluscare and s3://saulscare;

b. Schedule a hearing on SalusCare’s motion for preliminary injunction before expiration of the TRO;

c. Enter preliminary and permanent injunctions enjoining Defendants John Doe and Amazon and their officers, directors, principals, agents, servants, employees, successors, and assigns, and all persons and entities in active concert or participation with them, from engaging in any of the activity complained of herein or from causing any of the injury complained of herein and from assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activity complained of herein or from causing any of the injury complained of herein;

d. Order Amazon to provide SalusCare with expedited discovery by turning over all audit logs that are available for the Buckets as soon as practicable.

e. Award Plaintiff any and all other relief to which Plaintiff is entitled.

Respectfully submitted on March 23, 2021.



**VERIFICATION**

STATE OF FLORIDA    )  
                                  ) §  
COUNTY OF LEE        )

I hereby verify that I am the President and Chief Executive Officer of SalusCare, Inc. and that the contents of this Verified Unopposed Emergency Motion for Temporary Restraining Order/Preliminary Injunction and Motion for Expedited Discovery are true and accurate to the best of my knowledge and belief.



STACEY COOK, MSW, LCSW, CPNLP

SWORN TO and SUBSCRIBED BEFORE ME, via ☒ physical presence or ☐ online notarization, this 23 day of March, 2021, by STACEY COOK, who took an oath and who is personally known by me or who has produced DL C200-792-72-722-0 as identification.

  
Notary Public

**J. TOM SMOOT, III, P.A.**

Trial Counsel for Plaintiff

1401 Lee Street, Suite D

Fort Myers, Florida 33901

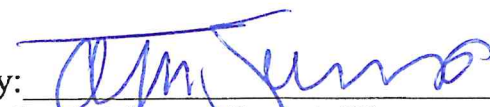
Telephone: (239) 337-7037

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Primary email: [tom@tsmoot.com](mailto:tom@tsmoot.com)

Other email: [sharon@tsmoot.com](mailto:sharon@tsmoot.com)

By:



James Thomas Smoot, III

Florida Bar No.: 886874



**AFFIDAVIT OF ALEJANDRO GARCIA**

STATE OF FLORIDA       }  
                                      }ss  
COUNTY OF LEE        }

1. My name is Alejandro Garcia.
2. I am over 18 years of age and make this affidavit from my personal knowledge.
3. I have been employed by SalusCare, Inc. for 16 years. My position currently is Business Data Analyst Manager.
4. My responsibilities include troubleshooting SalusCare, Inc.'s computer system.
5. On March 16, 2021 I was investigating reports of computer system slowness. I employed diagnostic applications and discovered that a large amount of data had just been exfiltrated from the system. The system's audit trail demonstrated that the data had been copied to two storage "buckets" maintained by Amazon Web Services, Inc. identified as s3://saluscare and s3://saulscare. The copying was unauthorized, and conducted by a person unknown to SalusCare, Inc.
6. Further examination of the audit trail demonstrated that the code employed to gain access to SalusCare's system originated in Ukraine. SalusCare has no connection with Ukraine.
7. At all times, SalusCare's computer system, which contains the server from which the data was stole, has been password-protected.

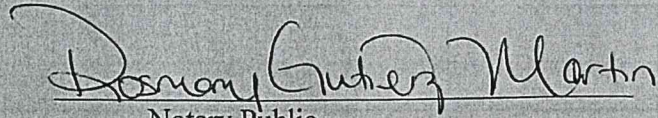
FURTHER AFFIANT SAYETH NAUGHT.

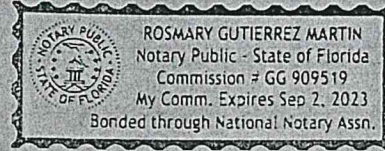
  
\_\_\_\_\_  
ALEJANDRO GARCIA

SWORN TO AND SUBSCRIBED TO before me, by means of ☒ physical presence or ☐ online notarization, on this 23 day of March, 2021, by Alejandro Garcia, whose driver license number is 6620-000-68-190-0, and who did take an oath.



My Commission Expires:

  
Notary Public





UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

**SALUSCARE, INC.**

Plaintiff,

v.

**AMAZON WEB SERVICES, INC.**

and **JOHN DOE**, In Possession of Stolen  
SalusCare, Inc. Confidential Information,  
Thereby Injuring SalusCare, Inc. and Its  
Customers, Clients, and Vendors,

Defendants.

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**ORDER GRANTING TEMPORARY RESTRAINING ORDER, TAKING  
UNDER ADVISEMENT THE MOTION FOR PRELIMINARY  
INJUNCTION, AND GRANTING THE MOTION FOR EXPEDITED  
DISCOVERY**

This matter came before the Court on the motion of plaintiff, SalusCare, Inc. (“SalusCare”) for a temporary restraining order (“TRO”) and preliminary injunction, and for an order permitting expedited discovery. Defendant Amazon Web Services, Inc. (“Amazon”) does not object to the relief sought in the motions. Defendant John Doe is represented to be an anonymous foreign computer hacker and, as such, is not expected to take part in these proceedings.

**Findings of Fact**



Based on the proffers in SalusCare's Verified Complaint and Verified Motion for TRO, and the affidavit of Alejandro Garcia, the Court makes the following findings of fact:

Plaintiff SalusCare is a not-for-profit mental health and substance abuse service provider headquartered in Fort Myers, Florida. Incorporated in 2013, following the merger of Lee Mental Health Center and Southwest Florida Addiction Services (SWFAS), it is the most comprehensive provider of behavioral healthcare services in Southwest Florida.

Amazon is a Delaware corporation which provides information storage services to individuals and companies. Amazon routinely contracts with entities for such data storage services throughout the United States and the world, including the State of Florida. Amazon is headquartered in and a resident of the State of Washington.

On March 16, 2021, Alejandro Garcia, a computer technician employed by SalusCare, responded to reports of a computer slowdown, and soon discovered through audit logs that SalusCare's server had just been hacked and copied by an unknown actor without authorization. The computer on which the subject data is stored was protected by passwords given only to SalusCare employees.

SalusCare's audit logs showed that the hacker's "code" originated in Ukraine, and that the servers were copied to two Amazon URLs identified as s3://saluscare

and s3://saulscare. SalusCare has no business in Ukraine and is unaware of any legitimate, non-fraudulent explanation for such an exfiltration of data.

The stolen data is an entire database containing thousands of SalusCare's electronically-stored patient and employee files. The files contain extremely personal and sensitive records of patients' psychiatric and addiction counselling and treatment. The files also contain sensitive financial information such as social security numbers and credit card numbers of SalusCare patients and employees.

SalusCare has already suffered loss in that it has been forced to spend over \$12,000.00 on an outside vendor of forensic analysis services. Without a TRO, the hacker is likely to gain access to the stolen information in order to sell it.

Due to the nature of the stolen data, its unauthorized disclosure is likely to cause irreparable harm to SalusCare's patients' and employees' privacy, health, credit and finances.

Counsel for SalusCare has, prior to filing this lawsuit, engaged in substantive communication with attorneys employed in Amazon's general counsel office. Amazon told plaintiff its has suspended the hacker's access to the data. However, Amazon has not promised to maintain such suspension of access and, absent a TRO or injunction, Amazon could lift the suspension without notice to plaintiff.

Due to the elusive and nefarious nature of the hacker, SalusCare has not

communicated with it and does not expect to. Service of process on the hacker is unlikely.

### **Preliminary Injunction.**

Rule 65 of the Federal Rules of Civil Procedure provides that a court may only issue a preliminary injunction “on notice to the adverse party.” Fed. R. Civ. P. 65(a) (1). A court may, however, issue a TRO without notice to the adverse party if “specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition.” Fed. R. Civ. P. 65(b) (1) (A). Because defendants have not been served with process, the Court will take SalusCare’s request for a preliminary injunction under advisement.

### **Temporary Restraining Order (“TRO”)**

A court is authorized to enter a TRO in limited circumstances. See Fed. R. Civ. P. 65(b); Local Rule 4.05. “Such orders will be entered only in emergency cases to maintain the status quo until the requisite notice may be given and an opportunity is afforded to opposing parties to respond to the application for a preliminary injunction.” Local Rule 4.05(a). The party seeking relief must demonstrate: (1) a substantial likelihood of success on the merits;(2) irreparable injury “so imminent that notice and a hearing on the application for preliminary injunction is impractical if not impossible”; (3) that the balance of equities favors



the movant; and (4) that the TRO, if issued, will not be adverse to the public interest. Local Rule 4.05 (ta) (2)–(4). See also *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1225–26 (11th Cir. 2005). A TRO “is an extraordinary and drastic remedy not to be granted unless the movant clearly establishes ‘the burden of persuasion’ as to each of the four prerequisites.” *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000) (quoting *All Care Nursing Serv., Inc. v. Bethesda Mem’l Hosp., Inc.*, 837 F.2d 1535, 1537 (11<sup>th</sup> Cir. 1989)).

**A. Substantial Likelihood of Success on the Merits.** Plaintiffs are likely to prevail on the merits of their claims under the Florida Computer Abuse and Recovery Act (“FCARA”), Ch. 668.801 et seq. Fla. Stat.

FCARA makes it unlawful to “knowingly and with intent to cause harm or loss ... [o]btain[] information from a protected computer without authorization and, as a result, cause[] harm or loss.” Fla. Stat. 688.803(1). FCARA defines a “protected computer” as one which is:

used in connection with the operation of a business and stores information, programs, or code in connection with the operation of the business in which the stored information, programs, or code can be accessed only by employing a technological access barrier.

Fla. Stat. 668.802(6).

To establish a violation of FCARA, a plaintiff must prove (1) it had a protected computer, (2) a person obtained information from it without authorization,

(3) the person obtained the information knowingly and with an intent to cause harm or loss, and (4) actually caused harm or loss.

**i. Protected computer.** SalusCare has established through the Verified Complaint [¶ 28], verified by its President and CEO, Stacey Cook, and also by the affidavit, attached hereto, of Alejandro Garcia, its Business Data Analyst Manager, that the computer on which the subject data is stored is protected by technological access barriers, to wit: passwords given only to SalusCare employees.

**ii. Person obtained information without authorization.** SalusCare demonstrated that its server was copied by an unauthorized person. The affidavit of Alejandro Garcia, SalusCare's Business Data Analyst Manager, states demonstrated that on March 16, 2021, Garcia responded to reports of a computer slowdown, and soon discovered through audit logs that SalusCare's server had just been "hacked" and copied by an unknown actor without authorization. Garcia attested that the hacker's "code" originated in Ukraine, and that audit logs showed the servers were copied to two Amazon URLs identified as s3://saluscare and s3://saulscare.

**iii. Person obtained the information knowingly and with an intent to cause harm or loss.** SalusCare established that the database and information was obtained knowingly and with an intent to cause harm or loss. The affidavit of Alejandro Garcia and the Verified Complaint [¶ 11] demonstrate that SalusCare has no business in Ukraine and is unaware of any legitimate, non-fraudulent explanation

for such an exfiltration. Further, there is simply no reason to conclude that an unauthorized person would copy SalusCare's database in this manner other than to cause harm or loss.

**iv. Actual harm and loss resulted.** SalusCare established through the Verified Complaint [¶ 14] that it has already suffered loss in that it has been forced to spend over \$12,000.00 on an outside vendor of forensic analysis services.

**B. Irreparable Injury.** “A showing of irreparable injury is the *sine qua non* of injunctive relief.” Siegel, 234 F.3d at 1176 (quoting *Ne. Fla. Chapter of Ass'n of General Contractors v. Jacksonville*, 896 F.2d 1283, 1285 (11th Cir. 1990)). The asserted irreparable injury “must be neither remote nor speculative, but actual and imminent.” *Id.* Further, because injunctions regulate future conduct, “a party has standing to seek injunctive relief only if the party alleges, and ultimately proves, a real and immediate-as opposed to a merely conjectural or hypothetical-threat of future injury.” *Church v. City of Huntsville*, 30 F.3d 1332, 1337 (11<sup>th</sup> Cir. 1994) (citing *Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983)). Here, SalusCare has demonstrated the likelihood of irreparable injury is imminent and great. Based on the Verified Complaint [¶¶ 23, 29] and affidavit of Garcia, one can only conclude that, without Court intervention, John Doe is likely to gain access to the Buckets and continue to sell the confidential health care and financial information contained



therein. There is no legal remedy for the loss of patient health and privacy that would result from disclosure of the stolen information.

**C. Balance of the Harm to the Parties.** SalusCare established that the threatened harm substantially outweighs any potential harm to Amazon or John Doe because SalusCare is likely to suffer irreparable harm, while John Doe would suffer, at worst, a temporary loss of access to the information while it makes its case. Amazon would suffer no conceivable harm in a temporary freeze of the Buckets. Indeed, Amazon has voluntarily suspended access to the Buckets for the time being. A TRO would simply allow the parties to maintain the status quo thereby ensuring that John Doe will not have an opportunity to access or use the subject information while it hypothetically pursued its legal rights. The balance of harm thus weighs in favor of SalusCare.

**D. Public Interest.** SalusCare demonstrated there is no evidence that a TRO would be adverse to the public interest. Indeed, it is in the public interest to protect patients of a healthcare provider against public disclosure of their sensitive and private healthcare and financial records. Accordingly, entry of a TRO in this matter would serve the public interest and should therefore be granted.

**F. Bond.** Rule 65(c) provides that a court may issue a TRO “only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or

restrained.” Fed. R. Civ. P. 65(c). Amazon does not seek a bond. However, to the extent defendant John Doe is entitled to consideration of a bond, a nominal bond in the amount of \$1,000.00 would be sufficient, at least initially, to redress John Doe’s damages for temporary lack of access to the Buckets due to an improvidently issued TRO.

**II. Expedited Discovery.** SalusCare requests that Amazon be ordered to turn over all audit logs that are available for the Buckets as soon as practicable. Amazon does not object to this request. The Court has the discretion to authorize expedited discovery in aid of a preliminary injunction hearing, particularly where the discovery is narrow and essential and good cause exists. See *Thyssenkrupp Elevator Corp. v. Hubbard*, Case No. 2:13–cv–202–FtM–29SPC, 2013 WL 1953346, at \*1 (M.D. Fla. May 10, 2013). Factors bearing on the existence of good cause include: “(1) whether a motion for preliminary injunction is pending; (2) the breadth of the requested discovery; (3) the reason(s) for requesting expedited discovery; (4) the burden on the opponent to comply with the request for discovery; and (5) how far in advance of the typical discovery process the request is made.” *Id.* Here, the requested discovery is narrowly tailored to identify what stolen information has been disclosed and to whom, and what remains undisclosed. For these reasons, SalusCare’s motion for expedited discovery has merit.

Accordingly, it is hereby

**ORDERED:**

1. Plaintiffs' *Ex Parte* Motion for a Temporary Restraining Order is

**GRANTED.**

a. Defendant John Doe, its officers, agents, servants, and employees and any persons in active concert or participation with them are temporarily restrained and enjoined from directly or indirectly accessing, transferring, disclosing, or dealing in any way with any data stolen from SalusCare, Inc.

b. Defendant Amazon Web Services, Inc. and its officers, directors, principals, agents, servants, employees, successors, and assigns, and all persons and entities in active concert or participation with them, are temporarily restrained and enjoined from allowing access to anyone to the contents of the Amazon Web Systems, Inc. URLs identified as s3://saluscare and s3://saulscare.

c. Pursuant to Fed. R. Civ. P. 65(c), plaintiff shall post a surety bond or a certified or attorney's check in the amount of **\$1,000.00**, as payment of damages to which defendant may be entitled for wrongful injunction or restraint.

d. The Temporary Restraining Order shall remain in effect for **fourteen (14) days**, unless the Court, for good cause shown, extends it for a



like period or the defendant consents to a longer extension. Fed. R. Civ. P. 65(b) (2).

2. Plaintiffs' Motion for Expedited Discovery is **GRANTED**. Amazon Web Services, Inc. is ordered to turn over all audit logs that are available to it relating to its URLs identified as s3://saluscare and s3://saulscare as soon as practicable.

3. Plaintiffs' Motion for a Preliminary Injunction is **TAKEN UNDER ADVISEMENT**. The hearing on the motion will be held on \_\_\_\_\_, at \_\_\_\_\_, in Courtroom \_\_\_\_\_ of the United States Courthouse and Federal Building, Fort Myers, Florida, at which time any defendant and/or affected persons may challenge the appropriateness of the Temporary Restraining Order and move to dissolve the same and at which time the Court will hear argument on plaintiff's requested Preliminary Injunction.

**DONE and ORDERED** at Fort Myers, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2021, at \_\_\_\_ a.m./p.m.